for transportation.

The contention that the state was the real party in interest and that therefore the fel-eral courts could not take cognizance of it under the eleventh amendment to the constitution was overruled, the court saying that the federal courts had jurisdiction because both of the diverse citizenship or atjenage of the parties, and also on account of the fact that the act is attacked as con-trary to the provisions of the federal con-

was also contended that the act could not be made applicable to the Union Pacific railroad because it has a federal charter, and the act creating the corporation has reserved to congress the right to the the rates on this line in certain contingencies, but the court took the possition that as congress has not availed itself of this privilege the states through which the Union Pacific passes have the right to fix rates. Justice Harlan said on this point:

the power specifically reserved by the eighteenth section of the act of 1862, or its power under the general reservation made of authority to add to, alter, amend or re-peal that act, prescribes rates to be charged by the railroad company, it remains with the states through which the road passes to fix rates for transportation begin-ning and ending with their respective limits.

CONSTITUTIONAL QUESTIONS. Justice Harlan then took up the constitu It is a state that it is provided that no state shall deprive any person of property without due process of law nor deny to any person of property without due process of law nor deny to any person within its jurisdiction the squal protection of the laws.

That corporations are persons within the meaning of this amendment is now settled. What amounts to deprivation of property without due process of law or a denial of the equal protection of the laws, is often difficult to determine, especially where the question relates to the property of a quasi public corporation and the extent to which it may be subjected to public control. But this court, speaking by Chief Justice Walle, has said that while a state has power to fix the charges by railroad companies for the transportation of persons and property within its own jurisdiction, unless restrained by valid contract, or unless what is done amounts to a regulation of foreign or laterate company. tional questions involved. He said: done amounts to a regulation of foreign of done amounts to a regulation of foreign or interstate commerce, such spower is not without limit; and that "under pretense of regulating fares and freights the state cannot require a railroad corporation to carry persons or property without reward, neither can it do that which in law amounts to the taking of private property for public use without just compensation or without due process of law."

Justice Harlan said that the following principles must be regarded as settled: A railroad corporation is a person within the meaning of the fourteenth amend-ment; declaring that no state shall deprive any person of property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws; a state enactment or regulation made under a state enactment or regulation made under the authority of a state enactment, estab-ilsiling such rates for the transportation of persons or property by railroad as will not udmit of the carrier earning such compensa-tion as under all the circumstances is just to it and to the public, would deprive such earrier of its property without due process of law and deny to it the equal protection of the laws and would, therefore, be re-pagnant to the fourteenth amendment of the constitution of the Unicel States.

2. If the rates for transportation of per-sons and property within the limits of a state are primarily for its determination, the question whither they are so unreason-

the question whether they are so unreasonably low as to deprive the carrier of its property without such compensation as the constitution secures and, therefore, without due process of law, cannot be so conclusively determined by the legislature of the state or by regulations adopted under its authority that the matter may not become the subject of judicial inquiry. This last proposition Justice Harlan said

covered the case in point. He then prointo the effect of the enforcement of the rates prescribed upon the business of the different Nebraska lines, showing the reduction to amount to 29.50 per cent for the years 1891, 1892 and 1893. The result was to show that each of the roads involved would for this period have conducted their business-a a loss with only one or two exceptions and

here for only a short while.
Discussing the question as to what are the considerations to which weight must be given when we seek to ascertain the comessation which a rallroad company is entitled to receive and a prohibition upon the receiving of which may be fairly deemed a deprivation by legislative decree of prop-

Undoubtedly that question could be more Undoubtedly that question could be more easily determined by a commission composed of persons whose special skill, observation and experience qualifies them to so handle great problems of transportation as id do justice to the public as well as to those whose money has been used to construct and maintain highways for the convenience and benefit of the people. But despite the difficulties that confessedly attend the proper solution of such questions, the court cannot shrink from the duty to determine whether it be true, as alleged, that the Nebraska statute invades or destroys rights secured by the supreme law of the land.

rights secured by the supreme law of the land.

No one, we take it, will contend that a state enactment is in harmony with that law simply because the legislature of the state has declared such to be the case; for that would make the state legislature the final judge of the validity of its enactment, although the constitution of the United States and the laws made in pursuance thereof are the supreme law of the land, anything in the constitution or laws of any state to the contrary notwithstanding.

The idea that any legislature, state or federal, can conclusively determine for the people and for the courts that what it engacts in the form of a law, or what it authorized its agents to do, is consistent with the fundamental law, is in opposition to the theory of our institutions. The duty resistance all courts, federal and state, when their jurisdiction is properly invoked, to see to it that no right secured by the supreme law of the land is impaired or destroyed by legislation.

It had been contended on behalf of the law that the state of Nebraska could legally require local freight business to be conducted even at an actual less, if the company earned on its interstate business enough to give it just compensation in respect of its entire line, and all its business, interstate and domestic. The court did not except this view, Justice Harlan saying: We cannot concur in this view. In our udgment it must be held that the reasonbleness or unreasonableness of rates pre scribed by a state for the transportati

persons and property wholly within its lim-its must be determined without reference to the business of an interstate character done

Spring Medicine to purify your blood, give you good appetite, sound sleep, eteady nerves and perfect digestion. That scrofulous taint, that skin trou-

ble, that liver diffleulty, that bilious ake tendency, that

tired feeling, are all cured by Hood's Sarsaparilla. Give this medicine a fair trial and you will realize its positive merit. It is not what we say, but what the people who are cured say, which prove that

Hood's

Sarsaparilla Is America's Hood's Pills cure Liver Ills; easy to

established principles and rules of equity by the carrier, or to the profits derived from permit such a suit in that court, and he that business. The state cannot justify unpermit such a suit in that court, and he cannot be deprived of that right by reason of his being allowed to sue at law in a state court on the same cause of action. The transactions along the line of any one of these railroads, out of which causes of action might arise under the statute, are so numerous and varied that the interference of squity could well be justified upon the ground that a general decree, according to the prayer of the bills, would avoid a multiplicity of suits and give a remedy more certain and efficacious than could be given in any proceeding instituted against the company in a court of law; for a court of law could only deal with each separate fransaction involving the rates to be charged for transportation.

by the carrier, or to the profits derived from that business. The state cannot justify untation, considered alone upon the ground that the carrier justify untation, considered alone upon the ground that the carrier justify untation, considered alone upon the ground that the carrier is earning large profits on its interstate business, over-which, so far as rates are concerned, the state has no control. Nor can the carrier justify unreasonably high rates on domestic business in interstate business on the ground that any proceeding instituted against the company in a court of law; for a court of law; for a court of law control or law; for a court of law; for a cou points within the state which the state can prescribe, and when it undertakes to pre-scribe rates not to be exceeded by the car-rier, it must do so with reference exclu-sively to what is just and reasonable as between the carrier and the public in re-spect of domestic business.

DEFINES REASONABLE CHARGES. Referring to the arguments on the two ides of the case as to what are reasonable charges, etc., the opinion laid down the following:
We hold that the basis of all calculations

we noid that the basis of all calculations as to reasonableness of rates to be charged by a corporation maintaining a highway under legislative sanction, must be the fair value of the property being used by it for the convenience of the public. And in order the convenience of the public. And in order to ascertain that value the original cost of construction, the amount expended in permanent improvements, the amount and market value of its bonds and stock, the present as compared with the original cost of construction, the probable earning capacity of the property under any rates prescribed by statute, and the sum required to mark the straight expenses are all matters.

prescribed by statute, and the sum required to meet operating expenses, are all matters for consideration and to be given such weight as may be just and right in the particular case. What the company is entitled to ask for fair return on is the value of that which it employs for the public convenience. On the other hand, what the public is entitled to demand is that no more be exacted from it for the use of a public highway than the services rendered by it are reasonably worth. But even upon this basis we perceive no ground on the record for reversing the decree of the circuit court. On the conceive no ground on the record for reversing the decree of the circuit court. On the con-trary we are of the cpinion that as to most of the companies in question, there would have been under the rates established by the act of 1893 an actual loss in each of the years ending June 30, 191, 1892 and 1893, and years ending June 20, 1931, 1802 and 1803, and substantially no compensation earned for the services rendered, and that, in the exceptional cases above stated, the receipts or gains, above operating expenses, of some of the companies, would have been too small to affect the general conclusion that the act, if enforced, would have deprived each of the railroad companies involved in those suits of the just compensation secured to them by the constitution. Under the evidence there is no ground for saying that the operating expenses of any of them were greater than necessary.

In conclusion Justice Harlan said that i business improved the state could apply to he courts, his language being as follows: the courts, his language being as follows:
But it may be added that the conditions of business, so far as railroad corporations are concerned, have probably changed for the better and that the rates prescribed by the statute of 1823 may now afford all the compensation to which the railroad companies in Nebraska are entitled as between them and the public. In anticipation, perhaps, of such a change of circumstances, the circuit court wisely provided in its final decree that the defendants, members of the Board of Transportation, might, "when the circumstances have changed so that the rates fixed in the said act of 1823 shall yield to the said companies reasonable compensarates fixed in the said act of 1893 shall yield to the said companies reasonable compensation for the services aforesaid," apply to the count by bill or otherwise, as they might be advised, for a further order in that behalf. Of this provision of the final decree where the board of Transportation, if so activised can avail themselves.

In that event, if the circuit court finds that the present condition of business is such as to admit of the application of the statute to the railroad companies in question without destricts them.

statute to the railroad companies in ques-tion without depriving them of just com-pensation, it will be its duty to discharge the injunction heretofore granted and to make whatever order is necessary to remove any obstruction placed by the decrees in these cases in the way of the enforcement of the statute.

Chief Justice Fuller and Justice McKenna id not participate in the hearing or in the

that he had opposed the contention that the aw involved a confiscation of property under article xiv of the constitution, but aside from that he had nothing to say beyond the state ment that the supreme court had evidently

Judge Woolworth, who represented the railrate cope was at his home when apprised of the decision of the United States suprem court. In speaking of the matter he said Without knowing definitely what points the court considered in passing upon the case, 1 can't at this time say much that would be of interest regarding the issues, as all of the facts have been published in the papers There was never any doubt in my mind shout the result of the maximum rate case in the supreme court, so far as the first proposition was concerned. That was that the rates allowed by the statutes would not pay the railroads for doing business. There was another proposition that was of more general interest and that was the consideration of by what rule of legislation the rates

could be measured.
"On the argumer the argument, Bryan insisted that he railroads were entitled to a fair rate Interest on what it would cost to reproduce the property at the present time. He also insisted that the proof showed that the rail-road property in this state could be re-produced at \$20,000 per mile. On that basis e held that the railroad companies were ntitled to reasonable compensation, "The court undoubtedly rejected the question of declaring what a reasonable maximum rate would be. The plaintiff in these cases in the circuit court who received decrees insisted that you must take what the property is worth in the market and that that might be the price at which the stock would sell on the market, or it might be the value of the whole stock issued, to-gether with the amount of the fixed charges."

EXTRA SESSION TALK. There was unfeigned satisfaction in local railroad circles during the afternoon when the news that the United States supreme court had rendered a decision destroying the effectiveness of the Nebraska max-imum rate law became known. The decision was not altogether unex-pected, so many rumors of a decision in favor of the railroads having been received months. Some railroaders express themselves as fearful that the decision may result in the calling of an extra session of the

probability of an extra session of the legis-lature was earnestly discussed. One prominent politician, a republican attorney, sald:
"An extra session is bound to result from this decision. The state government has fallen down in this fight against the railroads, but it must of necessity do something further to place itself in fighting trim for the fall campaign. Governor Holcomb is desirous of doing something to foist himself to the front, and this will give him the longedfor opportunity. I predict that an extra session of the legislature will be called within

sixty days."

This opinion, though hinted at in railroad there as the probable outcome of the lost fight against the transportation companies. At might feel itself aggreed by the rates the headquarters it was the common belief that headquarters it was the common belief that of the state and thus obtain an order of the state Board of Transportation increasing to attempt any anti-railroad legislation to attempt any anti-ralicoad legislation would be impracticable and would not be attempted. One prominent railroad official said: "Our people are all too well satisfied just now to take up a fight against the rail-visions of the Nebraska constitution upon that the said and the roads. The farmers are getting good prices that subject.

The farmers are getting good prices that subject.

The farmers are getting good prices that subject.

The formers are getting good prices that subject.

The court held that in determining what and see if you haven't put your finger on the soing to leave their plowing to go to Lincoln to start another fight against the railroads that would turn out just about the
same way this one has terminated. If it
were in a season of general depression it
might be different, but as it is now I doubt
very much if any extra season of the leafer. very much if any extra session of the legisterty.

At the court held that in determining the

apt to meet with success."

NOT READY TO COMMENT.

Most of the railroad c ficials expressed a desire to read the text of the opinion of the court before commenting thereupon. This is what General Manager Holdrege and Assistant General Solicitor Kelby of the B. & M. both eald when asked for an expression of opinion. General Freight Agent Crosby of the came road said if the supreme court

had ruled against the maximum rate law he supposed that would settle the matter. Freight Traffic Manager Munroe of the Union Facific said he was glad to learn of the decision and was anxious to see the text. General Western Agent Nash of the Milwaukee road expressed his gratification, but offered no comment. Assistant General Freight and Passenger Agent Phillippt of the Missouri Pacific was equally well pleased, and remarked if it were not for the war scare the marked if it were not for the war scare the up railroad stocks a few points. General Agent Denton of the Rock Island's freight

三大的工作。 原为的对对关 经

to a lower basis than in Nebraska even. A prominent attorney who is very familiar the with the case from start to finish said: "I expected no other decision. I have seen the evidence of both sides. The State Board of Transportation furnished mighty weak evidence in this case, and it could have furnished some remarkably strong evidence had it so desired. But it overlooked a whole lot of things, apparently desiring to make no stronger case than it really had to do. That is why I say I'm not surprised at the decision. With the evidence at hand I do not see how it could have been otherwise.'

HISTORY OF THE CELEBRATED CASE.

Maximum Rate Law One of Nebraska's Most Interesting Subjects. Probably the most interesting chapter of Nebraska's legislative history is that which States. It has afforded food for political discussion for many years, was the direct cause of the moral death of one senator and the indirect cause of the physical death of unand schedule, the only difference being a few Boyd considered the bill fully during the attorney general, C. J. Smyth, whole time allotted him by the constitution, to the legislature, submitted receiving many long petitions for its approval. Governor Boyd vetced the bill and it back to the legislature with a at the bribery and kidnaping of Taylor of Loup county. He was hurried cked under a call, which was finally raised, and the defeat of the bill followed, it falling to receive the necessary two-thirds vote. PASSED AGAIN IN 1893.

The agitation in favor of a railroad law as continued during the campaigns of 1891 and 1892. When the legislative returns were canvassed after the election of 1892 it was found that the populists had a clear working majority in the house, and that the senate was hopelessly divided along political The populists and the republicans had each elected fourteen senators, while the the circuit court of the United States for democrats had secured five, thus holding the the Eighth district hangs the effect of the balance of power. A maximum rate law was decision handed down yesterday. At the again introduced in the house and passed. In time Judge Brewer gave his pronouncement the senate its fate was for a long time in loubt. The railroads maintained a strong it was noted be had made no suggestion as the strong it was noted by had made no suggestion as obby and used every resource at their command to defeat the bill. For a long time it semed certain that the measure could not pass the senate. Its passage required sevencen votes, and the populists could muster but fourteen. Senator Charles Clarke of Omaha was known to be favorable to the bill. but he was confined to his bed with a severe ttack of typhoid fever, and it was hardly be-Chary with Their Comment.

John L. Webster expressed neither surprise nor chagrin when he was informed of prise nor chagrin when he was informed of the control of the characters of the control of the c Senator Clarke. One afternoon, to the surprise of all the opponents of the bill. Senator Clarke made his appearance in the senate chamber. His return settled the fate of the bill. In the closing hours of the session the measure was passed with the votes of Senators Clarke, Hale and Thomsen. Governor Crounse, a republican official, attached his signature in approval, and it was a law, efective after the expiration of three months. Senator Clarke died shortly after casting his

vote for the bill.

It seemed to be generally conceded that the railroad companies affected by the pro-visions of the new law would contest its execution in the courts; but as the weeks went by the public received no sign. A week before the law became operative, however, the B. & M. railroad made its first move by notifying the State Board of Transportation that preparatory to recognizing the new law it would abolish the 5-cent differential so long enjoyed by the jobbers of the city of Lincoln, and which practically placed them on an equal footing with Omaha. The wholesale men of Lincoln became aroused and at a public meeting raised funds and employed attorneys to resist the abolition of the differential. In the meantime t became noised about that the State Board f Transportation would circumvent the purose of the B. & M. to discriminate, as it vas alleged, against Lincoln, by revising the classification so as to continue to give Linoin the benefits of the differential. urpose of the State Board of Transportation, if it existed at all, was thwarted by the B. & M., which applied to the federal court for an injunction restraining the members and secretaries of the board from making any

revision in the classification. PRESENT SUIT COMMENCED. This injunction suit never reached either an issue or a determination. Before it could an issue of a actermination. Before it could be taken up bills in equity were filed in the circuit court of the United States by the stockholders of the railroads in Nebraska affected to have the law acquided illegal and void and to restrain the officers and managers of the railroads from putting its provisions into effect. The state of Nebraska through its attorney general, promptly intervened and became a party defendant to the suits. James M. Woolworth of Omaha was the principal counsel for the railroad com-panies, while John L. Webster represented in chief the interests of the state of Ne-Voluminous testimony was taken on rate laws that could stand the test of the the district of Nebraska, now deceased. and Elmer S. Dundy, then federal judge for Among attorneys and railroaders alike the and in favor of the stockholders of the sev opinion was against the state of Nebraska opinion was an exhaustive one and was written by Judge Brewer. It was announced by Judge Dundy and the latter entered the

decree as prayed for.

The cases were immediately revived by the state of Nebraska and appealed to the su-preme court of the United States. In deciding the case Judge Brewer's rulings adverse to the claims of the state may be summarized as follows:

1. The court held that it had jurisdiction to grant the injunction as prayed, notwithheadquarters, was not generally accepted there as the probable outcome of the lost fight standing the fact that the rates were estab-

Passenger Agent Phillippi of the Missouri

7. The courte field that in determining the Pacific was equally well pleased, and remarked if it were not for the war scare the decision would have the effect of sending eration the profits from interstate business,

the profits Dom's passenger business, profits from local business in other st department said the decision was of the greatest importance to every railroad in the state a reduction should be made to a like rate in railroad commission has trimmed down rates other states and by congress on interstate to a lower basis than in Nebraska even. whole business of the companies IN THE SUPREME COURT.

To controvert the conclusions summarized in the foregoing, the state of Nebraska, through its attorneys, appealed the whole case to the supreme court of the United States. The legislature of 1895 not only authorized the appeal, but appropriated the funds to pay the necessary expenses, attorpeal was approved April 5, 1895, and John L Webster of Omaha employed to prosecute the case to an issue. On August 3, 1895, the case was docketed in the supreme court of the United States. On December 16, 1895, Mr. Webster filed a motion to advance the case. The motion was sustained and the March 4, 1896. On April 20, 1896, the case was restored to the docket and a reargument concerns the maximum rate case, just de-cided by the supreme court of the United state filed a motion to have the case advanced, but the court overruled it, at the same time giving leave to renew the motion on the third Monday in January, 1897. Nothing was done in the disc in the months in tervening from April 20 until November 30 other, and has been the theme of one of the most important suits in equity ever argued. The court was in session until May 25, but most important suits in equity ever argued. Early in the session of 1891, the populists have the case advanced, so that it was not having a majority in the legislature, a maximum rate law was introduced in the house stated. The orse might have been advanced by Fred Newberry of Hamilton county. It much sooner but for the fact that the State was an exact copy of the Iowa classification Board of Transportation interfered in the management of the case to the extent of slight changes in phraseology made neces-adopting a resolution authorizing Attorney sary by local conditions. After a series of General Churchill to enter into a stipulation sensational events the bill passed both with the attorneys for the railroads egreeing branches of the legislature, reaching the desk to postpone the motion for advancement until of the chief executive. Governor James E. the third Monday in January. The present whole time allotted him by the constitution, to the legislature, submitted on March 24 giving hearings to all interests involved and last, believes that the case would have been settled much sooner had it not been for such

interference. However, the state made the best of its message. It was passed by the house over the veto and sent to the senate, where it became the occasion of one of the most exciting and blackest episodes in the legislative case was argued by Jehn L. Webster and W. history of the state. The opposite the case was argued by Jehn L. Webster and W. history of the state. The opponents of the bill, uncertain of their strength, connived clated with the counsel for the state, but was Senator informally invited to participate in the final proceedings by Attorney General Smyth and away from Lincoln on a special engine and Governor Holcomb. Some amusing comment carried to Iowa, being first located at Council was made from the fact that under the rigid Biuffs, from whence he went to Chicago. Taylor's disappearance left the senate dead-States the time allotted to the state was entirely consumed by Mr. Webster and Mr. Bryan, and thus Attorney General Smyth was shut out entirely from making any argumen in a matter in which he had taken so much

> TEXT OF JUDGE BREWER'S DECREE Order of the Court Which Was Ap

pealed and Sustained. On the interpretation of Judge Brewer's decree in the case where it was decided in the circuit court of the United States for to what constitutes a reasonable return. In the argument before the supreme court at Washington much stress was laid on this point by the counsel for both sides. Elaborate tables and computations were produced and offered to the court with lengthy ex planations. It now appears the supreme court has left the matter in quite as unsatisfactory state as before it was appealed, so far as a basis for calculating rates is conull text of Judge Brewer's order and d cree is:

full text of Judge Brewer's order and decree is:

It is decreed as follows:

That the said rallroad companies and each and every one of them, and said receivers, be perpetually enjoined and restrained from making or publishing a schedule of rates to be charged by them or any or either of them for the transportation of freight, or and over their respective roads in this state from one point to another therein, whereby such rates shall be reduced to those prescribed by the act of the Igislardre of this state, called in the bill filed therein, "House Roll 33," and entitled "An Act to Regulate Railroads; to Classify Freights; to Fix Reasonable Maximum Rates to Be Charged for the Transportation of Freight Upon Each of the Railroads in the State of Nebraska and Provide Penalties for the Violation of This Act." approved April 12, 1893, and below those now charged by said companies or either of them or their receivers, or in anywise obeying, observing or conforming to the provisions, commands, injunctions and prohibitions of said alieged act; and that the Board of Transportation of said state and the members and secretaries of said board be in like manner perpetually enjoined and restrained from entertaining, hearing or determining any complaint to it against said railroad companies or any or either of them, or their receivers, or on account of any act or thing by either of said companies or their receivers, their officers.

ount of any act or thing by either of said ompanies or their receivers, their officers. agents, servants or employes, done, suffere or omitted, which may be forbidden o or omitted, which may be forbidden or commanded by said alleged act, and from instituting or prosecuting or causing to be instituted or prosecuted, any action or pro-ceeding, civil or criminal, against either of said companies or their receivers, for an said companies or their receivers, for any act or thing done, suffered or omitted, which may be forbidden or commanded by said act and particularly from reducing its present rates of charges for transportation of freight to those prescribed in said act, and that the attorney general of this state be in like manner enjoined from bringing, aiding in bringing or causing to be brought aiding in bringing or causing to be brought any proceeding, by way of injunction mandamus, civil action or indictment any proceeding, by way of injunction, mandamus, civil action or indictment, against said companies or either of them or their receivers for or on account of any action or emission on their part commanded or forbidden by the said act. And that a writ of himselfon issue out of this part of the said act. or forbidden by the said act. And that a writ of injunction issue out of this court

120 MILES AN HOUR.

Locomotives Arranged With a Multi ple Genr.

Some day we may look for a locomotive en gine with the piston rods connected with a large gear wheel running in a smaller gear wheels. By this device the same travel of the piston rod that we have in our present locomotives will turn the driving wheels over twice and result in 120 miles per hour instead of sixty miles per hour.

Then it wilf be necessary to provide a sharp front to the train to avoid the heavy air pressure, and to devise some practical safety rails to insure the train sticking to them. These things are coming. Mark the

As the world moves faster, those would stay with it and enjoy the yearly improvements must preserve and conserve their health. Coffee ds one of the most cunning destroyers of nervous activity extant. Its effects show in a great variety of ways and is when one finds that little troubles with the body are cropping up too frequently to be pleasant it will be a clever stroke of com-

ing commences. Many people fail to get a desirable cup from Postum simply and solely because they leave it on the stove 15 min utes and consider because it looks black and rich that it is done.

Not so. The delicious flavor and food value to not extracted until it has sharply boiled at least 15 minutes after boiling commences. It is a powerful builder of brain

TEAM LINASET

and under the seal thereof, directed to the said defendants, commanding, enjoining and restraining them as hereinbefore set forth, which injunction shall be perpetual, same as is hereinafter provided.

And it is further declared, adjudged and decreed that the act above entitled is repugnant to the constitution of the United States, for asmuch as by the provisions of said act the said defendant railroad companies may not exact for the transportation of freight from one point to another within this state charges which yield to the said companies, or either of them, reasonable compensation for such services.

It is further ordered, adjudged and decreed that the defendants, members of the Board of Transportation of said state, may hereafter when the circumstances have Board of Transportation of said state, may hereafter when the circumstances have changed so that the rates fixed in the said act shall yield to the said companies reasonable compensation for the services aforesaid, apply to this court by supplemental bill or otherwise as they may be advised, for a further order in that behalf.

It is further ordered, adjudged and decreed that the plaintiffs recover of the said defendants the court of the said afternation. defendants their costs, to be taxed by the

NEXT MOVE IN RATE MATTER Governor and Attorney General Con-

sult in Regard to Action. LINCOLN, March 7 .- (Special.)-News of the decision in the maximum rate case reached the state house shortly before noon today, and while it was not unexpected caused a tremor of excitement. This afternoon Governor Holcomb had a long consultation with the attorney general, sumably on the future course to be pursued In regard to rate legislation.

The governor was seen by The Bee shortly

fice and said: "I am disappointed that the act of the legislature was not sustained. I had hoped that it would be, although rumors of an adverse decision have been com-ing for several months and I am not entirely surprised at the news just received. I am not prepared just now to say what I will do in regard to the calling of an extra ses sion of the legislature, as I desire first to pead the full text of the decision and find upon what grounds it has been rendered. The morning papers will no doubt print the decision in full, so that we can all be better informed. I desire to take some time in studying the situation before deciding on the question of an extra session."

At the office of the State Board of Transportation Secretaries Laws and Edgerton were on duty. Mr. Laws spent the afternoon comparing the rates specified in the Newberry bill with the rates now in force. He said that the board could give nothing to the public until after the text of the de cision was received. Mr. Edgerton said he was quite sure the court had found no fault with the constitutionality of the act. The finding must have been that the rates were too low for the period when the act was passed, amounting to the taking of railroad property without giving due compensation. He believed that the conditions of business which existed at the time the case went to the courts no longer exist and that the rea-sons given by the court would not apply to the present, so that the act could yet be put in force, the receipts and expenditures of the roads having materially changed. DECISION PLEASES RAILROADERS

It Lifts a Burden from Their Shoulders and Clears the Atmosphere.

CHICAGO, March 7 .- The officials in this city of the roads doing business in the state of Nebraska were highly delighted over the decision in the maximum freight rate case. They had for the most part been confident that the court would find in favor of the railroads, and for the last six months have been expressing that opinion. At the same time the actual rendering of the decision was a great relief to them, as in case the law had been held to be valid the roads were looking for similar legislation in other states If the law had stood as to freight rates the passenger men were looking for action covering the passenger fares, and all the roads are greatly relieved that the danger of being compelled to make possible reductions in their rates, when none of them are making any too much money, is out of the way

TWO ROBBERS HOLD UP A SALOON. Work of Brace of Bad Men South Side

The saloon of Robert Krakropski, Twentysixth and Walnut streets, was robbed last night by two men while the proprietor and his friend stood against the wall with uplifted arms. The robbers secured \$30, and escapel without leaving even a description

The time chosen was 10 o'clock, when there was no one in the place except Krakropski and another Pole. The men were sitting by the stove talking and smoking when a stranger entered. He were a formid. able appearance, his face was covered to the eyes with a handkerchief and he was armed with two revolvers. The men were ordered to stand up, and when they were arranged against the wall the second bandit, who had been watching outside, made his appearance and went through pockets with one hand while holding a revolver ready in the other Only small change was secured and the robber turned his attention to the bar. From the drawer he took the proceeds of the day, amounting to \$30. The robbers then left and went south along the railroad tracks which pass close to the saloon door. Previous to their departure one of them took a large coal shovel from near the stove and thrus It through the handle of the door on the outside, holding the occupants prisoners until they were safely away. The central station was notified and detectives were sent to the location, but were too late to accomplish any

results.

The description obtained was not good. The saloon keeper said the men were of the same height, about five feet, eight inches.

The patrol wagon received a hurry call last night to Guelph's saloon, Forty-third and Military avenue. It had been reported that two burglars, who had entered several houses in the neighborhood, had been surrounded in the place by citizens. When the wagon arrived it was found that the suspects were honest tradesmen who lived in the neighborhood. The citizens said they had tracked two men to the place who had been begging at different doors in a presuming manner, but it was supposed they must have made their escape through a rear door.

CANADA SEEMS TO BE IRRITATED. Repudiates Recent Enactments by the

TORONTO, Ont., Murch 7 .- The Ottawa correspondent of the Globe (the liberal government's mouthpiece), referring today to the passage of the Alaskan homestead law by the United States senate and the concessions asked from Canada in return for the privi-lege of bonding goods at Fort Wrangle, says: "The answer of our government to the re-markable legislation passed by the sepate at Washington on Friday, should it receive the president's approval, will be a courteous reminder that we intend to pavigate the Stickeen under the treaty rights which give us this privilege forever.

"The bill adopted in effect gives us the right to enter goods at Fort Wrangle and trans-ship in bond only on certain imp conditions, among them that we shall allow American miners entering the Yukon to carry in half a ton of food, clothing and plant free of duty; that we shall allow American fishermen the right to purchase buit in our ports that we shall give charters to American railways beginnig at Talya and Skagway and desiring to build through British territory; that we shall issue miner's licenses at points convenient for United States citizens. There is not a petty South American state that would allow itself to be held up in this manner and there is a good deal of scorn-ful amusement among members of parliament over the demonds of the United States

"It will probably be intimated to th Washington as plainly lomatic words can intimate it, that Canada will shut up the Yukon as tight as a bomb, turn back all American miners and keep the gold fields as they are, undeveloped until a railway can be built from an ocean port of British Columbia into that region rather than submit to any terms of the sort contained in the bill."

School Teacher is Killed. COLUMBIA, Mo., March 7 .- A report mes from Harrisburg, Boone county, of the killing of James Ivie, a school teacher, by William H. Davia, principal of the public schools. They quarreled over a woman. After the shooting Davis surrendered and was released under \$2,000 bonds. the killing of James Ivie, a school teacher,

ENCOURAGES THE SPANISH

Arrival of War Ships Swells Up the

Wreckers Clearing Away the Maine So that Divers Can Make More Thorough Examination of the Hall.

NEW YORK, March 7 .-- A dispatch to the Tribune from Havana says: The arrival of the Spanish ship Almirante Oquendo, although the Spanish population was still rejoicing over the coming of the Vizcaya, has given the Spaniards an exaggerated notion of Spain's naval prowess. The tendency is to cause a feeling that war with the United States would not be so serious for Spain. The idea may seem ridiculous in the United States, yet the existence of this belief among a large element of the population of Havana should not be ignored. These Spanish war ships encourage the notion that the result of the Maine inquiry is a subject of indifference to the Spanish government.

Not many days will be needed for Captain Sampson and his associates to conclude the after the attorney general had left the ofinvestigation. The wrecking companies are making progress in clearing a way through the superstructure. During the absence of the board the Navy department divers have been able to extend their examination of the plates of the hull. They found those plates twisted as from an outside explosion. Everything previously learned regarding the for ward magazine being intact and the existence of large quantities of unexploded ammunition has been confirmed and strength-ened without going into minutia, but it is said the Navy department officers have much technical evidence from the condition of the hull and the interior of the wreck hat the Maine explosion was due to foul play. As to whether by a torpedo or a subnavine mine doubts may be left. No proof can be gathered by the naval board concerning the persons who were in the con-spiracy. The Spanish authorities are in a petter position to determine that matter, SPANISH WORK SLOWLY.

The Spanish divers have been working very slowly. They have been giving more attention to the coal bunkers apparently than to other portions of the wreck. They have made nothing more than a superficial examination of the hull. It seems to be unerstood that the Spanish admiralty board n its official investigation is fluding little evidence to give plausible support to the theory of accident. This distinction from positive proof of an external explosion it may not be able to ignore. There is clearly less confidence in official circles than during the period when the declarations of accident were made by General Blanco. The Spanish inquiry proceeds in leisurely fashion. It may be a long time before a conclusion is reached. This will be no reason for a long | York and Philadelphia.

Under the conditions the internal policies of Cuba will be exciting, for recen developments have been significant. adleal autonomists having failed in their plan of coaxing the insurgents, a reaction has come. The intransigeantes now domi-nate the government's policy. The autonomist cabinet is not a factor in the situation. Senor Govin's withdrawal from the cabinet has been demanded by some of the obstinate intransigeantes because of his radical utter ances in favor of more concessions to the insurgents, but the demand is not pressed.

The cabinet is now powerless to withstand pressure. The Weylerites and ultra-Spanish classes and volunteers are supreme. An official assuance by General Blanco and Premier Sagasta that the government has n intention of disarming them tells only hall the story. Hereafter there will be more aggressiveness in interfering in the affairs of the government. They may hurry it along into action before the Madrid cabinet is ready. The volunteers, as a class, are filled States. Their movements hereafter will bear

Senator Proctor, who has been visiting places near Havana, is going to Sagua and possibly to other ports of Santa Clara province. He is in no hurry to return to Washington. Apparently Senator Procto-has not formed a favorable impression of especially into the economic conditions. American relief, after much mismanage-ment, is finally reaching the starving people in the country for whom it was meant.

WILL CONTINUE AT HIS POST General Lee Answers News

paper Man's Query. HAVANA, March 7 .- General Fitzhugh Lee, consul general of the United States was questioned today regarding Spain's de mand for his recall and said: "I shall con timue to do my duty, which is to guard American interests."

"Fitzhugh Lee, my son, came to visit m during the short vacation granted him by the Chesapeake & Ohio ratiroad. He was here before, has many friends and will re turn to the United States when his vacation is over, next week. Mrs. Lee is not ill, not s she nervous. I have not written her any thing to alarm her. I have had no need to do so.'

As previously cabled, the coast survey steamer Bache, on its return from Key West, will take the Fern's place here near the wreck of the Maine, as quarters for the officers. The Fern is to go north to take on board supplies for the reconcentradoes, taking these supplies direct to Matanzas and Sagua la Grande. Technically, the Fern is a war vessel, because it mounts one gun, a six pounder, which is used for saluting.
Only surmises can be made as to how long the United States court of inquiry into the loss of the Maine will remain here, but it does not seem likely that the court's stay here will be much longer protracted. Its members profess ignorance as to the time of their departure for the United States. The court of inquiry held its usual ses-

sions today, examining Eusign Powellson and the divers' plans. The Spanish divers work when they desir

o do so. The wreckers advanced steadily today in clearing away the debris. Many articles o personal value to the officers of the Maine are recovered from time to time.

On account of the attempted smuggling from New York the customs officers give careful examination of all consignments of relief supplies. Except on the order of the military authorities the distribution of quinine has been prohibited for a time. It was found that much quinine made its way into the hands of the insurgents.

No official information is accessible concerning the deportation of governl Amer can correspondents. Several Americans were passengers on the Ward line steamer Concoho today.

As bearing on the state of the public feel-

thirty-two balls and more or less elaborate parties in Havana last night.
The report of the resignation of United States Consul Barker at Sagua la Grande is not confirmed. Mr. Barker, when last seen in Havana, expressed himself as very much because supplies had sent to the reconsentrados in his district. Miss Clara Barton is at Sagua la Grand today.

PRESIDENT HAS MANY CALLERS ee Incident Supposed to Be Responsible for Several of Them.

WASHINGTON, March 7 .- Not since the

disaster to the Maine has the president received so large a number of early callers of prominence as this morning. Senatora Allison and Hale were among the first to errive and they were immediately shown into the cabinet room. They were soon joined by ecretary Long and Representatives Dingley, Grosvenor and Cannon. The conference lasted nearly or quite an hour and at its conclusion all left about the same time It was learned the intimation that Spain was dissatisfied with General Lee and might ask the president to recall him came to the

thecities eignified their acquiescence and this fact was duly cabled to the secretary of state It therefore appears that the status is the same as before the incident. The correspondas understood here, did not show that Spain had made a demand for General Lee's Proud Dons.

Proud Dons.

Spain taid made a demand for General Lee's recall, or that the Madrid government had gone so far as to request his recall. The extent of its displeasure was expressed in an intimation simply that his presence in Havana as the representative of the United States government was not agreeable to them. The complaint against sending relief supplies to Cuba in war vessels was made through Mr. du Bosc, the Spanish charge, but when the matter was fully explained to him he expressed his entire satisfection with present arrangement and intimated that he would withdraw his protest.

SECRETARY LONG ASKS FOR MONEY.

He Wants it for Equipping Vessels and Buying Coal, WASHINGTON, March 7 .- Secretary Long sent to congress today for inclusion in the urgent deficiency an estimate of an approprisation of \$300,000 to be immediately available for the equipment of vessels in the navy for the present fiscal year and for the immediate supply of 10,000 tons of coal for Key

The report accompanying the request shows the bunker capacity of the ships in the nav now in the vicinity of the Dry Tortugas and Key West is about 12,000 tons and the storage capacity of the coal sheds at Key is 4,200 tons. The larger vessels of the fleet the secretary says, cannot approach nearer than seven miles of Key West. At present they coal from schooners at Tortugas and at other places nearby when weather permits. There is one flat lighter with a ca-pacity of 300 tons row at Key West. This is not suitable for use at any distance from the port. The report concludes as follows:

The bureau believes it is for the interest of the service that additional temporary coal sheds should be constructed on gov-ernment land at Key West which will inernment land at Key West which will increase the stowage capacity there up to 10,000 or 12,000 tons and that lighters be furnished which may be towed anywhere within a radius of sixty miles of Key West. Also that at least 10,000 tons of coal be laid down at Key West ready for an emergency. The appropriation for the remainder of the present year is inadequate for these purposes and in order that the bureau may be able to execute the necessary contracts at once it is recommended that congress appropriate \$100,000 additional so be immediately available.

Enlisting Men for the Navy. WASHINGTON, March 7.- The Navy department today began the recruiting of men for the Columbia and the Minneapolis, which are now at the League island navy yard. This action is taken notwithstanding the delay on the part of congress in providing for the 1,500 additional men asked Secretary Long in his recent communication to the naval affairs committee on the sub-ject. The officials express no doubt but that favorable action will be taken on the secretary's request and are simply taking time by the forelock so they may be in readiness if trouble should come. About 650 men in all will be required for the two vessels and the enlistments are in progress at Boston, New



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